IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.19296 of 2007
BAIDYANATH RAM & ANR
Versus
STATE OF BIHAR & ANR
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8. 23.9.2008. Heard the learned counsel for the petitioners and the learned A.P.P. for the State.

The grievance of the petitioners is against the order dated 2.12.2006 passed in Complaint Case No.1311C of 2006 by the learned Sub Divisional Judicial Magistrate, Begusarai, whereby he has taken cognizance against the petitioners.

The marriage of the complainant with petitioner no.1 was solemnized some four years back, i.e., around July, 2002, whereat sufficient gifts commensurate with the capacity of the parents were bestowed upon the husband and the complainant. The complainant settled down in the matrimonial home and out of the wedlock a girl child was born. However, suddenly a demand of a colour T.V., a Yamaha motorcycle and Rs.50,000/- in case was made and it was explained to the complainant that if she did not bring this amount she would be thrown out of the house and in this connection attempts were made to kill her. The accused also confiscated all other house hold goods.

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The submission advanced on behalf of the petitioners is that the complainant had left the matrimonial home of her own accord for which he had filed an Informatory Petition No.986 of 2006 before the learned Sub- Divisional Magistrate, Samastipur but no action had been taken thereupon and this was followed by Matrimonial Suit No.11 of

2007 under Section 9 of the Hindu Marriage Act for restitution of relationship of husband and wife.

The grievance of the petitioners is that even during the pendency of the matrimonial suit the learned court below took cognizance on erroneous application of mind.

Unfortunately, the subsequent matrimonial suit happens to be a counter blast to the complaint case filed by the complainant and the impugned order of the learned Magistrate is well reasoned.

It is by now well settled that in a complaint case the Magistrate is required to hold an inquiry under Section 202 Cr.P.C. and when the materials come on such inquiry he has to decide whether there is materials enough to issue process against the accused and since he is required to see the intrinsic value of the evidence which has come on record so as to decide whether there is materials enough to proceed against the accused, this is not the stage where he has to evaluate and separate the chaff from the grains to arrive at a finding that eventually the case will end in acquittal or conviction. Gainful reference may be made to the case of Chandradeo Vs. Prakash Chandra (AIR 1963 SC 1430).

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Therefore, having given a consideration on all views of the matter, I am of the opinion that there is no merit in this application since the learned Magistrate has assigned cogent reasons for having taken cognizance and the same cannot be interfered with.

Accordingly, this application is dismissed.

(Abhijit Sinha,J)

P.S.